

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ALLVOICE DEVELOPMENTS US, LLC, §

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§

v.

NO. 6:09-cv-366

MICROSOFT CORPORATION.

§

MEMORANDUM OPINION & ORDER

Before the Court is third-parties Advance Voice Recognition Systems, Inc. Douglas Holt, Michael K. Davis, and Joseph Miglietta's (collectively, "AVRS") motion for protective order to limit the scope of discovery sought in subpoenas issued and served by Plaintiff Allvoice Developments US, LLC ("Plaintiff") and Defendant Microsoft Corporation ("Defendant") (Doc. No. 75). The Court has concerns AVRS's motion is not properly before this Court. *See In re Clients and Former Clients of Baron & Budd, P.C.*, 478 F.3d 670, 671 (5th Cir. 2007) (acknowledging proper court to consider a motion to quash or modify a subpoena is the issuing court rather than the court where the action is pending); *Assoc. of Am. Physicians & Surgeons, Inc. v. Texas Med. Bd.*, No. 5:07-cv-191, 2008 WL 2944671 at *3 (E.D. Tex. July 25, 2008) (denying motion for protective order where subpoena was issued by another court); *Avance v. Kerr-McGee Chem. LLC*, No. 5:04-cv-209, 2005 WL 5315654, at * 4 (E.D. Tex. Aug. 9, 2005) (same); *see also Saxon Innovations, LLC v. Apple, Inc.*, No. 6:08-cv-265, slip op. at 3 (E.D. Tex. Feb. 9, 2010) (holding motion in abeyance pending further action by issuing court). It may be appropriate for AVRS to withdraw its motion and proceed before the issuing court. Alternatively, the Court **ORDERS** the parties to provide by June 3, 2010, supplemental briefing, limited to three substantive pages each, as to whether this motion is properly

before the Court. The parties' response, reply, and sur-reply deadlines are not affected by this order.

So ORDERED and SIGNED this 26th day of May, 2010.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE